

II. FINDINGS OF FACT

1. On April 11, 2001, The Steering Committee of Elected Officials (Steering Committee) made its recommendation to the Board of County Commissioners for the adoption of Urban Growth Areas for unincorporated Spokane County. This area included the territory that later was incorporated as the City of Liberty Lake.
2. On August 31, 2001, the City of Liberty Lake incorporated.
3. On November 5, 2001, Spokane County adopted its comprehensive plan establishing the UGAs and adopting population allocations for Spokane County. This designated the City of Liberty Lake as an incorporated UGA.
4. On September 16, 2003, Liberty Lake enacted Ordinance No. 118, which officially adopted the Comprehensive Plan (CP) of the City of Liberty Lake.
5. The City of Liberty Lake did not receive a recommended population allocation from the Steering Committee of Elected Officials, which had been established by Spokane County to "...make recommendations to the Board of County Commissioners for Urban Growth Area Adoption...", nor did Spokane County provide a population allocation to the City of Liberty Lake prior to enactment of Ordinance No. 118.

III. DISCUSSION

Petitioners allege Liberty Lake, in adopting Ordinance No. 118 failed to fulfill the goals of the Growth Management Act regarding five major areas:

1. Proceeding without the official population allocation;
2. Public Participation;
3. Capital Facilities Plan (CFP);
4. County Wide Planning Policies (CWPP); and
5. State Environmental Policy Act (SEPA).

The Board finds that the Respondent has not complied with Spokane County's CWPPs by their failure to receive a recommended population allotment from the Steering Committee and the population allocation from the Board of County Commissioners prior to

1 the adoption of their Comprehensive Plan. The Respondent cannot properly complete the
2 reviews necessary and develop their Comprehensive Plan until the County allocates future
3 population figures for the City. The Board cannot properly review the City's Comprehensive
4 Plan until it knows the projected population of the City. Growth plans for a city depend
5 upon the projected population. A final UGA can only be designated after an allocation of
6 future population growth has been made. While we understand Liberty Lake's frustrations,
7 they must follow the law.

8 While the Board need not address each of the issues raised, it is important to
9 express our concern on some. The City's public participation was extensive and we are
10 pleased with their efforts to include all in the process. While the Board does not find them
11 out of compliance on this issue, it is important to include as much as possible, all interested
12 parties, including Spokane County, the City of Spokane Valley, and all special purpose
13 districts within their boundaries.

14 The Board acknowledges the City of Liberty Lake did conduct a land use analysis
15 pursuant to the CTED guidelines but only determined how many houses could go on "x"
16 amount of acres. Spokane Valley asserts Liberty Lake failed to base its land capacity on
17 urban governmental services and facilities. CWPP Urban Policy #3, provides as follows:

18 Each jurisdiction will initially determine land capacity by that particular
19 jurisdiction's ability to accommodate growth within current city limits or within
20 unincorporated areas of the county using the Department of Community,
21 Trade and Economic Development's guidelines for designating Urban Growth
22 Areas..." CWPP Urban Policy #3 further states, "Jurisdictions shall use as
23 primary criteria the availability and capacity of urban governmental services
24 and public facilities."

25 In determining how much additional population can be accommodated within
26 an UGA, jurisdictions should first encourage new development in areas where
all urban governmental services and public facilities currently exist and
secondly encourage new development in areas where all urban governmental
services and public facilities can be provided economically.

Each jurisdiction shall accommodate its fair share of population growth based
on its ability to provide urban governmental services and public facilities. New

1 fully contained communities and master-plan resorts will be addressed
2 through Spokane County's comprehensive plan and population allocation
3 process.

4 The Board agrees with the Petitioner that important information is missing as to whether
5 governmental services and public facilities are available to serve the projected numbers.
6 These projected numbers were not available and Liberty Lake did not execute a detailed 6-
7 year facilities plan.

8 Spokane Valley cites CWPP, Urban Policy #5(a):

9 Each jurisdiction shall submit proposed interim and final Urban Growth Area
10 (UGA) boundaries to the Steering Committee, including: a) justification in the
11 form of its land capacity analysis and the ability to provide urban
12 governmental services and public facilities;

13 Liberty Lake did present their proposal to the Steering Committee. The Steering
14 Committee put Liberty Lake's proposal on hold and the Mayor of Liberty Lake stated they
15 would proceed with its self-established timeframe for finishing its comprehensive plan.
16 Respondent's Brief pg. 29 Doc. D.6, at 000192.

17 At the Steering Committee meeting the minutes reflect Commissioner McCaslin
18 moved to postpone this item for further discussion and possible action at a later date. The
19 motion was seconded by Councilwoman Rodgers.

20 October 9, 2003, Steering Committee minutes reflect the concerns of County
21 Commissioner McCaslin over the legality issue of Liberty Lake's comprehensive plan and
22 stated they had not gone through the Steering Committee for a population allocation, that
23 the Steering Committee did not recommend suggested Urban Growth Areas to the full
24 Board of County Commissioners, and the plan had not been brought before the lead
25 agency. Respondent's Ex. 000194.

26 Liberty Lake protested the delay, but the Steering Committee set no timeframe to
consider the matter.

1 By choosing to ignore the adopted process and making up its own rules in
2 completing its comprehensive plan, Liberty Lake has failed to comply with the GMA.

3 It is vital to follow the adopted process and document the data from the analysis so
4 Liberty Lake may proceed in finishing the comprehensive plan. This clearly was not done.
5 The Board finds nothing in the record supporting the City of Liberty Lake's contention that it
6 followed the adopted process outlined in the County Wide Planning Policies.

7 It is clear that the City failed to prepare an adequate 6-year plan for Capital Facilities.
8 When the boundaries are set and population allocations received, this must be done.

9 The Board in remanding Ordinance No. 118 has no knowledge of what the new
10 comprehensive plan will look like. The City of Liberty Lake may or may not need to revisit
11 the SEPA review process. We cannot pre-judge the issue of SEPA.

12 As to invalidity, the Board finds the Petitioner did not carry its burden of proof.

13 The Board directs Petitioner's counsel to draft a proposed Final Decision and Order
14 reflecting the decision in this Memorandum Opinion and incorporate the rulings herein for
15 the Board's consideration. The Board directs counsel to provide the draft to the Board and
16 parties by May 7, 2004. Respondent and Intervenor may respond to the Board by May 12,
2004, with any comments.

SO ORDERED this 21st day of April 2004.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD

Judy Wall, Board Member

D.E. "Skip" Chilberg , Board Member

Dennis Dellwo, Board Member